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**From:** Tomiak, Robert [tomiak.robert@epa.gov]  
**Sent:** 3/29/2019 5:21:12 PM  
**To:** Darwin, Henry [darwin.henry@epa.gov]  
**CC:** Traylor, Patrick [traylor.patrick@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Lopez, Peter [lopez.peter@epa.gov]; Reed, Chris [Reed.Chris@epa.gov]; Harlow, David [harlow.david@epa.gov]; Mugdan, Walter [Mugdan.Walter@epa.gov]; Woods, Clint [woods.clint@epa.gov]  
**Subject:** Limetree Bay Terminal (LBT) Status Update 3/29/2019

Henry,

As we continue to hold extremely productive meetings and share information/status updates, we are narrowing in and making progress on the remaining issues. **Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

Thanks, Rob

## Deliberative Process / Ex. 5

### Update on Current EPA Actions

- **Deliberative Process / Ex. 5**
- **Enforcement/Investigatory / Ex. 7(a); Ex.5**
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# Deliberative Process / Ex. 5

**From:** Tomiak, Robert  
**Sent:** Friday, March 15, 2019 5:06 AM  
**To:** Darwin, Henry <darwin.henry@epa.gov>  
**Cc:** Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>  
**Subject:** Limetree Bay Terminal (LBT) Status Update 3/15/2019

Henry,

As a result of continuous communication and information sharing with the LBT team, the most notable and positive update is that LBT has acknowledged that their expectation to be issued PAL permits by June 2019 was not practical and they have modified their schedule and strategy accordingly. Latest status update is provided below.

Thanks, Rob

# Deliberative Process / Ex. 5

## Update on Current EPA Actions:

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- **Enforcement/Investigatory / Ex. 7(a); Ex.5**

# Deliberative Process / Ex. 5

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**From:** Tomiak, Robert

**Sent:** Tuesday, March 05, 2019 3:51 PM

**To:** Darwin, Henry <[darwin.henry@epa.gov](mailto:darwin.henry@epa.gov)>

**Cc:** Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Lopez, Peter <[lopez.peter@epa.gov](mailto:lopez.peter@epa.gov)>; Tyler, Tom <[Tyler.Tom@epa.gov](mailto:Tyler.Tom@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>; Mugdan, Walter <[Mugdan.Walter@epa.gov](mailto:Mugdan.Walter@epa.gov)>

**Subject:** Limetree Bay Terminal (LBT) Status Update 3/5/2019

Henry,

Latest project status is provided below. As previously indicated, I made a decision late Friday to delay this report and requested that the team afford an additional round of staffing/vetting (not normally part of our regular process) given the nature of this particular update to prevent surprises and ensure alignment/accuracy. With the USACE's issuance of their 404 permit for the SPM, we now own the actions that are most critical and urgent to LBT.

Thanks, Rob

# Deliberative Process / Ex. 5

# Deliberative Process / Ex. 5

Update on Current EPA Actions:

## Enforcement/Investigatory / Ex. 7(a); Ex.5

# Deliberative Process / Ex. 5

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**From:** Tomiak, Robert

**Sent:** Monday, March 04, 2019 4:57 PM

**To:** Darwin, Henry <[darwin.henry@epa.gov](mailto:darwin.henry@epa.gov)>

**Cc:** Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Lopez, Peter <[lopez.peter@epa.gov](mailto:lopez.peter@epa.gov)>; Tyler, Tom <[Tyler.Tom@epa.gov](mailto:Tyler.Tom@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Re: Limetree Bay Terminal (LBT) Status Update 3/1/2019

Henry,

I apologize for the delay in last Friday's status update. Given the nature of the proposed update submitted by the team, I wanted to afford Pete the professional courtesy of his personal review. Will submit once he's had that opportunity.

Thanks, Rob

On Feb 15, 2019, at 1:47 PM, Tomiak, Robert <[tomiak.robert@epa.gov](mailto:tomiak.robert@epa.gov)> wrote:

Henry,

NMFS issued their Biological Opinion on Tuesday required for USACE to issue a 404 permit, which we expect will happen very soon. Focus will soon be almost exclusively on our pending actions and the timing. More detailed update is provided below.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 2/15/19

# Deliberative Process / Ex. 5

Update on Current EPA Actions:

## Enforcement/Investigatory / Ex. 7(a); Ex.5

# Deliberative Process / Ex. 5

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**From:** Tomiak, Robert

**Sent:** Thursday, January 31, 2019 10:21 AM

**To:** Darwin, Henry <[darwin.henry@epa.gov](mailto:darwin.henry@epa.gov)>

**Cc:** Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Lopez, Peter <[lopez.peter@epa.gov](mailto:lopez.peter@epa.gov)>; Tyler, Tom <[Tyler.Tom@epa.gov](mailto:Tyler.Tom@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Limetree Bay Terminal (LBT) Status Update 1/31/2019

Henry,

R2, OECA, OAR, and other supporting offices have quickly ramped back up after the shutdown; and we held a team coordination call this morning with LBT and their legal/management team to provide status updates on all pending actions. Please note the very last paragraph that quantifies the financial impact to LBT (their input) as a result of the shutdown that delayed NMFS in the processing of a Biological Opinion in support of a USACE 404 permit. Our colleagues at NMFS have indicated that they have restarted their efforts to conclude their process and coordinating closely with USACE.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 1/31/19

# Deliberative Process / Ex. 5

Update on Current EPA Actions:

**Enforcement/Investigatory / Ex. 7(a); Ex.5**

# Deliberative Process / Ex. 5

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**From:** Tomiak, Robert

**Sent:** Thursday, December 06, 2018 9:54 AM

**To:** Darwin, Henry <[darwin.henry@epa.gov](mailto:darwin.henry@epa.gov)>

**Cc:** Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Lopez, Peter <[lopez.peter@epa.gov](mailto:lopez.peter@epa.gov)>; Tyler, Tom <[Tyler.Tom@epa.gov](mailto:Tyler.Tom@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Limetree Bay Terminal (LBT) Status Update 12/6/2018

Henry,

This bi-weekly update was delayed a bit to ensure we had alignment throughout the team on some upcoming communication points, highlighted below.

Thanks, Rob

**Limetree Bay Terminals St. Croix project update 12/06/2018**

# Deliberative Process / Ex. 5

- **Update on Current EPA Actions:**

**Enforcement/Investigatory / Ex. 7(a); Ex. 5**

**Deliberative Process / Ex. 5**

**From:** Tomiak, Robert

**Sent:** Friday, November 16, 2018 12:48 PM

**To:** Darwin, Henry <[darwin.henry@epa.gov](mailto:darwin.henry@epa.gov)>

**Cc:** Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Lopez, Peter <[lopez.peter@epa.gov](mailto:lopez.peter@epa.gov)>; Tyler, Tom <[Tyler.Tom@epa.gov](mailto:Tyler.Tom@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Limetree Bay Terminal (LBT) Status Update 11/16/2018

Henry,

Extensive coordination ongoing between R2, OECA, and OAR on LBT actions/requests. Bi-weekly update provided below.

Thanks, Rob

**Limetree Bay Terminals St. Croix project update 11/16/2018**

- **Update on Current EPA Actions:**

**Deliberative Process / Ex. 5**

○ **Enforcement/Investigatory / Ex. 7(a); Ex. 5**

## **Deliberative Process / Ex. 5**

## **Deliberative Process / Ex. 5**

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**From:** Tomiak, Robert

**Sent:** Friday, November 02, 2018 11:42 AM

**To:** Darwin, Henry <[darwin.henry@epa.gov](mailto:darwin.henry@epa.gov)>

**Cc:** Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Lopez, Peter <[lopez.peter@epa.gov](mailto:lopez.peter@epa.gov)>; Tyler, Tom <[Tyler.Tom@epa.gov](mailto:Tyler.Tom@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Limetree Bay Terminal (LBT) Status Update 11/2/2018

Henry,

Significant support to LBT on a multitude of permit related issues and questions from R2 and OAR. As we close in on a meeting of minds with LBT on what permits and other determinations they require from us and other resource agencies, we have started constructing a Gantt chart to identify and map out critical path and to express process milestone dates required to help LBT stay on their schedule. Bi-weekly update provided below.

Thanks, Rob

**Limetree Bay Terminals St. Croix project update 11/02/2018**

## **Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

**From:** Tomiak, Robert

**Sent:** Friday, October 12, 2018 12:23 PM

**To:** Darwin, Henry <darwin.henry@epa.gov>

**Cc:** Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>

**Subject:** Limetree Bay Terminal (LBT) Status Update 10/12/2018

Henry,

# Deliberative Process / Ex. 5

Update below. Please let me know if you'd prefer additional details or a brief.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 10/12/2018

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**Enforcement/Investigatory / Ex. 7(a); Ex. 5**

# Deliberative Process / Ex. 5

**From:** Darwin, Henry

**Sent:** Friday, October 05, 2018 1:07 PM

**To:** Tomiak, Robert <tomiak.robert@epa.gov>



**Cc:** Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>  
**Subject:** RE: Limetree Bay Terminal (LBT) Status Update 10/5/2018

Thank you Rob for the update and the continued work on this. I agree that bi-weekly will be fine.

Henry

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**From:** Tomiak, Robert  
**Sent:** Friday, October 5, 2018 10:54 AM  
**To:** Darwin, Henry <darwin.henry@epa.gov>  
**Cc:** Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>  
**Subject:** Limetree Bay Terminal (LBT) Status Update 10/5/2018

Henry,

I'm confident now that our cross-agency team has an extremely good handle on all aspects of this project and its major milestones and dependencies; to even include those actions required of other organizations.

**Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

Thanks, Rob

**Limetree Bay Terminals St. Croix project update 10/5/2018**

# Deliberative Process / Ex. 5

# Deliberative Process / Ex. 5

**From:** Tomiak, Robert

**Sent:** Friday, September 28, 2018 11:13 AM

**To:** Darwin, Henry <darwin.henry@epa.gov>

**Cc:** Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>

**Subject:** Limetree Bay Terminal (LBT) Status Update 9/28/2018

Henry,

Weekly status update provided below. As briefly mentioned yesterday on our way to the OFD brief, OECA reinforced with the LBT principal and lead counsel last Friday that EPA established a senior working group to provide dedicated and timely assistance; however, they must provide information previously requested which is critical to our/DOJ's ability to help them quickly resolve issues and questions related to the Consent Decree. Our team remains focused on seeking LBT's additional potential plans and conceptual ideas related to "expansion/modification" so that we can determine what else might be required of us, or other organizations, and how we can assist. Please advise if you have any questions or would like an in-person brief.

Thanks, Rob

**Limetree Bay Terminals St. Croix project update 9/28/2018:**

# Deliberative Process / Ex. 5

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**From:** Tomiak, Robert  
**Sent:** Friday, September 21, 2018 1:13 PM  
**To:** Darwin, Henry  
**Cc:** Traylor, Patrick ; Wehrum, Bill ; Bolen, Brittany ; Lopez, Peter ; Tyler, Tom ; Harlow, David  
**Subject:** Limetree Bay Terminal (LBT) Status Update 9/21/2018

Henry,

LBT status update provided below; the team we assimilated is up and running with a significant degree of cross-organizational coordination and communication within their areas of expertise. In particular, Flaire Mills (R2 ORC) has been invaluable to our team effort. Please advise if you have any questions or would like an in-person brief.

Thanks, Rob

**Limetree Bay Terminals St. Croix project update 9/21/2018:**

# Deliberative Process / Ex. 5

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**From:** Tomiak, Robert  
**Sent:** Friday, September 14, 2018 12:23 PM  
**To:** Darwin, Henry <darwin.henry@epa.gov>  
**Cc:** Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>  
**Subject:** Limetree Bay Terminal (LBT) Status Update 9/14/2018

Henry,

My first recurring weekly status update is provided below. I will aim for Fridays, unless you or Andrew have a preference/need for a different frequency and/or different point in the week. I will also end each

update with a proposed summary that you can forward to AW at your discretion so that he is prepared to respond quickly to a no-notice inquiry. I'll keep future updates shorter (3-4 bulleted highlights or so), but please advise if you'd prefer a format other than what I have provided today. There is also a lot of detail behind each piece, so we are prepared to brief you in person with little notice if you'd like a deeper dive or have questions at any point. R2, OECA and OAR staff have invested a significant amount of time digging into the details; which certainly made getting up to speed much easier. I've copied Bill, Patrick, David, and Pete out of courtesy and appreciation....which I'd ask make it back down to their staff (and if any of you would like to be dropped from future updates, please let me know offline).

I've also attached R2's more recent issue paper/fact sheet for reference.

Thanks, Rob

**Limetree Bay Terminals St. Croix project update 9/14/2018:**

**Ex. 5 (delib. process) and Ex. 7A**

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**From:** Darwin, Henry

**Sent:** Wednesday, August 29, 2018 4:33 PM

**To:** Lopez, Peter <[lopez.peter@epa.gov](mailto:lopez.peter@epa.gov)>

**Cc:** Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Tomiak, Robert <[tomiak.robert@epa.gov](mailto:tomiak.robert@epa.gov)>

**Subject:** Limetree

Pete:

Acting Administrator Wheeler and I have asked the Office of Policy to engage their Office of Federal Activities to lead in the coordination of the Limetree matter. The Director, Rob Tomiak, has agreed to serve as EPA's project manager who will be the primary point of contact for Limetree in helping to connect them with the federal programs and offices they must involve to resume operations. Please inform your team to fully cooperate with Rob in these efforts.

If you have any questions, please let me know.

Thank you.

Henry